IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE: **JOSÉ LUIS RAMOS CARRIÓN** **SS-1873** **Address:** **1325 STEWARTSTOWN** **RD C-10** **MORGANTOWN, WV 26505** **DEBTOR**	**CASE NO. 16-05015 MCF/O** **CHAPTER 13**

OBJECTION TO CLAIM NUMBER (6) FILED BY CREDITOR ARMY & AIR FORCE EXCHANGE SERVICES AND NOTICE OF OPPORTUNITY FOR HEARING

TO THE HONORABLE COURT:

COMES NOW Debtor, represented by the undersigned attorney and respectfully represents and prays as follows:

1. Army & Air Force Exchange Services (hereinafter "Claimant") filed a Proof of Claim number (6) in the amount of *$231.37*, part of which has been filed as a secured claim. *See Proof of Claim No. 6*

2. Claimant has not appeared represented by counsel. However, Proof of Claim no. 6 was filed by creditor's attorney or authorized agent, Bass & Associates, P.C. Accordingly, service will be provided through certified mail to each party.

3. Claimant's Proof of Claim no. 6 is based on an open-end revolving consumer credit agreement for goods sold. *See Proof of Claim no. 6 at page. no. 4.*

4. Claimant's Proof of Claim no. 6 states to be allegedly secured in part in the amount of $195.00, plus an alleged unsecured portion of $36.37 for a total claim of $231.37. *See Proof of Claim no. 6 at page. no. 2.*

5. The Debtor objects to the claim on the following grounds:

a. The claim was filed without supporting evidence to establish its' alleged secured status - Claimant has not complied with Bankruptcy Rule 3001 (c)(1), which requires that when a claim is based on a writing, a copy of the writing shall be filed with the proof of claim[1] . Evidence of the credit card contract between Debtor and Claimant, that is the foundation of creditor's claim, has not been provided. As per page no. 6 of the Proof of Claim, it appears that the credit card, subject of this claim is in the name of another person. Also, the last four digits of the account no. 1232 that appear on page no. 6 of Proof of Claim no. 6 do not correspond to the account number provided by creditor in it's proof of claim on page no. 2.

b. No supporting documents have been provided to determine the secured status of $195.00 for the purchase of an Ipod, nor that a security interest in the property has been perfected [2]. No evidence has been provided to establish that a security interest was granted upon the purchase of the Ipod. The receipt of purchase does not establish that the purchase was subject to a retail plan and special promotion at the time of purchase. *See Proof of Claim no. 6 at pages no. 7; no. 18.*

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[1] *Bankruptcy Rule 3001 (c)* ***Supporting Information****. (1) Claim Based on a Writing. Except for a claim governed by paragraph (3) of this subdivision, when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.*

[2] *Bankruptcy Rule 3001 (d)* ***Evidence of Perfection of Security Interest****. If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected.*

c. Claimant has not provided evidence to support the unsecured claim of *$36.37*, in as much as no evidence has been provided to ascertain the reason for charging this amount. *See Proof of Claim no. 6 at page no. 2.*

d. Debtor objects to the claim in as much as it lacks supporting evidence to determine its' secured status; it is contradictory in it's redaction, and has not been executed and filed in compliance with Bankruptcy Rules. *"A filing in accordance with the rules, in order to receive the benefit of the claim's prima facie validity, means that proof of claim must set forth facts necessary to support the claim. In Re Chain, 255 BR. 278, 280 (Bankr.D.Conn. 2000) qtg. 8 L.King, Collier on Bankruptcy,¶3001.05 (15th ed. 1988)."*

4. Due to the above stated reasons, Debtor objects to Proof of Claim no. 6 asserting that the claim does not constitute prima facie evidence of its' validity, has not established its' secured status due to lack of supporting evidence, and requests for it's disallowance [3].

[3] *Bankruptcy Rule 3001 (f)* ***Evidentiary Effect****. A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.*

5. Debtor certifies that the Claimant is not a service member under the Servicemember's Civil Relief Act of 2003 ("SCRA"), in as much as Claimant is a commercial entity.

NOTICE OF OPPORTUNITY FOR HEARINGPURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the objection will be deemed unopposed and may be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the court, the interest of justice requires otherwise. If you file a timely response, the court may – in its discretion – schedule a hearing.

WHEREFORE, Debtor herein respectfully prays the Court to grant this objection and *disallow* Proof of Claim no. 6 filed by Army & Air Force Exchange Services, **unless**, within 30 days from the date of this objection, claimant files a written response to the objection with a request for hearing, with a copy thereof to the undersigned, in which case the Debtor requests the Court to set the matter for hearing at the earliest possible date.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification, upon information and belief, of such filing to: Monsita Lecaroz Arribas, Esq., U.S. Trustee's Office, and José R. Carrión, Esq., in addition to any and all parties registered in this case to receive CM/ECF Notices. We will serve by mail this document to any the above-named persons, upon knowing that they are non CM/ECF participants.

RESPECTFULLY SUBMITTED.

In Carolina, Puerto Rico, March 30, 2017**.**

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José Luis Ramos Carrión

CERTIFICATE OF SERVICE: I *Ruby Dee Fontánez Rodríguez* hereby certify that on or about March 30, 2017, a copy of the foregoing Objection to Claim No. 6 was sent to the following parties by certified mail with return receipt requested to their addresses of record, as per Proof of Claim no. 6: Army & Air Force Exchange Services, Attention GC-G, 3911 S. Walton Walker Blvd., Dallas, TX 75236; Army & Air Force Exchange Services, c/o Bass & Associates, P.C., 3936 E. Ft. Lowell Road, Suite #200, Tucson, AZ 85712-1083.

/s/Ruby Dee Fontánez Rodríguez
RUBY DEE FONTÁNEZ RODRÍGUEZ